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Communications, LLC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ENTROPIC COMMUNICATIONS,
LLC,

Plaintiff,

v.

COX COMMUNICATIONS, INC., *et al.*,

Defendants.

ENTROPIC COMMUNICATIONS, LLC,

Plaintiff,

v.

COMCAST CORPORATION, *et al.*,

Defendants.

Case No.: 2:23-cv-01049-JWH-KES
(Lead Case)

Case No.: 2:23-cv-01050-JWH-KES
(Related Case)

[Assigned to the Honorable John W.
Holcomb]

**DECLARATION OF SAMUEL
P. RICHEY IN SUPPORT OF
PLAINTIFF'S MOTION FOR
LEAVE TO AMEND AND
SUPPLEMENT COMPLAINT,
AND AMEND INFRINGEMENT
CONTENTIONS**

Hearing Date: December 15, 2023
Hearing Time: 9:00 a.m.
Courtroom: 9D

DECLARATION OF SAMUEL P. RICHEY

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I, Samuel P. Richey, declare as follows:

1. I am an attorney duly licensed to practice law in the State of California and I am a partner at the law firm of K&L Gates LLP. I am one of the attorneys on the K&L Gates team representing Plaintiff Entropic Communications, LLC (“Plaintiff” or “Entropic”) in the above-entitled action. This declaration is based on personal knowledge of the matters set forth in this declaration and based on documents on file with the Court and maintained as part of the Firm’s client files in this action. If called upon to testify regarding these matters, I could and would do so competently.

2. U.S. Patent No. 9,866,438 (the “‘438 Patent”) generally describes a mechanism for determining communication parameters for communications between a cable modem termination system and cable modems. This patent is in the same patent family as U.S. Patent No. 10,135,682 (the “‘682 Patent”). Attached hereto as **Exhibit A** is a true and correct copy of the ‘438 Patent.

3. As Entropic began investigating Cox's infringement of the Patents-in-Suit, Entropic discovered that Cox was also infringing the '438 Patent.

4. Specifically, Entropic first learned that it had a basis to assert the '438 Patent on September 11, 2023, when it discovered that public documents believed to describe the operation of Cox's cable modem termination system specifically described how Cox's cable modem termination system determines a plurality of SNR-related metrics for each of its cable modems.

5. U.S. Patent No. 11,785,275 (the “‘275 Patent”) generally describes systems and methods that digitize and select a plurality of desired channels located in non-contiguous portions of an input signal and provide the desired channels for processing. The ’275 Patent is a family member of the ’866 Patent and the ’206 Patent. Attached hereto as **Exhibit B** is a true and correct copy of the ’275 Patent.

1 6. The application for the '275 Patent was filed on September 30, 2022. A
2 Notice of Allowance was issued for the '275 Patent on August 28, 2023 and the issue
3 fee payment was made on September 5, 2023.

4 7. Once Entropic discovered a basis for asserting the '438 Patent, it
5 decided to wait until the '275 Patent issued so that it could request leave to assert
6 both patents in a single motion.

7 8. Entropic knew that the '275 Patent would issue shortly, and it did not
8 want to cause the parties to have to submit two sets of briefing that the court would
9 then have to review on nearly identical issues. Given the early stage of the case,
10 Entropic concluded that no parties would be prejudiced—and would indeed benefit—
11 from this approach.

12 9. The '275 Patent issued on October 10, 2023.

13 10. Following the issuance of the '275 Patent, Entropic promptly
14 investigated Cox's infringement and notified Cox that it would seek leave to assert
15 the '275 Patent on October 29, 2023. The parties met and conferred on November 1,
16 2023. Cox stated that it would oppose Entropic's request for leave because Entropic
17 had not "shown good grounds for amending or diligence" in seeking to add these
18 patents. Attached hereto as **Exhibit C** is a true and correct copy of the parties' email
19 correspondence.

20 11. Entropic served Cox with infringement contention claim charts for the
21 '438 Patent and the '275 Patent on November 3, 2023.

22 12. A true and correct copy of the Proposed Amended Complaint is attached
23 hereto as **Exhibit D**.

24 13. A true and correct copy of Exhibit 1 to the Proposed Amended
25 Complaint is attached hereto as **Exhibit E**.

26 14. A true and correct copy of Exhibit 2 to the Proposed Amended
27 Complaint is attached hereto as **Exhibit F**.

1 15. A true and correct copy of Exhibit 3 to the Proposed Amended
2 Complaint is attached hereto as **Exhibit G.**

3 16. A true and correct copy of Exhibit 4 to the Proposed Amended
4 Complaint is attached hereto as **Exhibit H.**

5 17. A true and correct copy of Exhibit 5 to the Proposed Amended
6 Complaint is attached hereto as **Exhibit I.**

7 18. A true and correct copy of Exhibit 6 to the Proposed Amended
8 Complaint is attached hereto as **Exhibit J.**

9 19. A true and correct copy of Exhibit 7 to the Proposed Amended
10 Complaint is attached hereto as **Exhibit K.**

11 20. A true and correct copy of Exhibit 8 to the Proposed Amended
12 Complaint is attached hereto as **Exhibit L.**

13 21. A true and correct copy of Exhibit 9 to the Proposed Amended
14 Complaint is attached hereto as **Exhibit M.**

15 22. A true and correct copy of Exhibit 10 to the Proposed Amended
16 Complaint is attached hereto as **Exhibit N.**

17 23. A true and correct copy of Exhibit 11 to the Proposed Amended
18 Complaint is attached hereto as **Exhibit O.**

19 24. A true and correct copy of Exhibit 12 to the Proposed Amended
20 Complaint is attached hereto as **Exhibit P.**

21 25. A true and correct copy of Exhibit 13 to the Proposed Amended
22 Complaint is attached hereto as **Exhibit Q.**

23 26. A true and correct copy of Exhibit 14 to the Proposed Amended
24 Complaint is attached hereto as **Exhibit R.**

25 27. A true and correct copy of Exhibit 15 to the Proposed Amended
26 Complaint is attached hereto as **Exhibit S.**

27 28. A true and correct copy of Exhibit 16 to the Proposed Amended
28 Complaint is attached hereto as **Exhibit T.**

29. A true and correct copy of Exhibit 17 to the Proposed Amended Complaint is attached hereto as **Exhibit U**.

30. A true and correct copy of Exhibit 18 to the Proposed Amended Complaint is attached hereto as **Exhibit V**.

31. A true and correct copy of Exhibit 19 to the Proposed Amended Complaint is attached hereto as **Exhibit W**.

32. A true and correct copy of Exhibit 20 to the Proposed Amended Complaint is attached hereto as **Exhibit X**.

33. A true and correct copy of Exhibit 21 to the Proposed Amended Complaint is attached hereto as **Exhibit Y**.

I declare under penalty of perjury under the laws of the United States and California that the foregoing is true and correct.

Executed on November 13, 2023 in Chicago, Illinois.

Samuel P. Richey
Samuel P. Richey